

AGENDA

NORTH DAKOTA RACING COMMISSION

Live and Teleconference Meeting

500 North 9th Street, Bismarck, ND

Tuesday, November 23, 2004

1:00 p.m. central

1. APPROVAL OF LICENSES

a. STATE SERVICE PROVIDER

Lien Games, Inc.

b. TOTE PROVIDER

AmTote International Inc.

c. SIMULCAST SITES

(1) Development Homes, Inc - Grand Forks
Rumor's - Grand Forks

(2) Fair Circuit Horse Racing Association - Fessenden
Turf Room - Fargo

(3) Horse Race North Dakota - Fargo
Howard Johnson Turf Club - Fargo

(3) Jamestown Eagles Club
Jamestown Eagles Club

(4) ND Association for the Disabled, Inc. - Grand Forks
Chips Casino and Lounge - Bismarck

(5) The Team Makers Club, Inc. - Fargo
The Bowler - Fargo
The Turf Club 9 - Fargo

(6) Turtle Mountain Band of Chippewa
Sky Dancer Hotel and Casino - Belcourt

(7) Williston Convention and Visitors Bureau, Inc.
El Rancho Club - Williston

2. LIVE RACE DATE REQUESTS

- a. Outdoor Recreation Development Assn (ORDA)
Chippewa Downs - Belcourt
(8 race dates)
 - June 4 & 5
 - June 11 & 12
 - June 18 & 19
 - June 25 & 26

- b. Horse Race North Dakota - Fargo
(21 race dates)
 - August 5, 6, 7
 - August 12, 13, 14
 - August 19, 20, 21
 - August 26, 26, 28
 - September 3, 4, 5
 - Harness Meet
 - (6 race dates)
 - September 9, 10, 11
 - September 16, 17, 18

- c. North Dakota Harness Racing Association - Bottineau
(4 race dates)
 - May 29 & 30
 - June 4 & 5

3. ADDITIONAL BUSINESS

- a. Approval of NAPRA payment of \$10,000

- b. Recommendation of final Order from the Office of Administrative Hearings
- Wanda Belgarde

If you plan to attend the meeting and will need special facilities or assistance relating to a disability,
please contact the Racing Commission at 701-328-4633.

NORTH DAKOTA RACING COMMISSION
Live and Telephone Meeting
500 North 9th Street, Bismarck, ND
Tuesday, November 23, 2004
1:00 p.m. (central)

PRESENT:

Chairman James Boehm, Commissioners James Arthaud, James Clement, Administrative Officer Helen Tessmann and Auditor Roger Thompson.

By Telephone: Commissioners Clarence Frederick, Sr. and DeAnn Pladson

OTHERS PRESENT:

Dave Thompson, ND Public Radio
Doug Bahr, Office of Attorney General
Jim Tilton, Horse Race North Dakota
Mike Cichy, Lien Games
Leon Glasser, ND Quarter Horse Racing Assoc.
Richard Nevins
Wes Heinert, ND Horsemen's Advisory Committee
Nancy Bayer, Personalized Management
Dale Wetzel, Associated Press
Will Grant (by phone with Commissioner Frederick)

Chairman Boehm called the meeting to order at 1:10 p.m. Chairman Boehm asked the Administrative Officer to take the roll call as indicated below:

Commissioner Arthaud	-	Here
Commissioner Clement	-	Here
Commissioner Frederick	-	Here (by phone)
Commissioner Pladson	-	Here (by phone)
Chairman Boehm	-	Here

Chairman Boehm stated the number one item on the agenda is the approval of licenses which needs to be done before the first of the year.

AGENDA ITEM #1

1. APPROVAL OF LICENSES

a. STATE SERVICE PROVIDER

- Lien Games, Inc.

Commissioner Arthaud made the motion to approve Lien Games as the state service provider.
The motion was seconded by Commissioner Clement.

Chairman Boehm asked for discussion and with none asked Administrative Officer Tessmann to take the roll:

Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Commissioner Pladson	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

Chairman Boehm stated that item "b" under number one was licensing the tote provider, AmTote International Incorporated.

b. TOTE PROVIDER

- AmTote International Inc.

Commissioner Arthaud made the motion to approve AmTote International Inc. as the tote provider. The motion was seconded by Commissioner Clement.

Chairman Boehm asked for discussion and with none asked Administrative Officer Tessmann to take the roll:

Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Commissioner Pladson	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

Regarding the simulcast sites, Chairman Boehm recommended to accept all sites, except the Howard Johnson Turf Club site which will be acted on separately.

c. SIMULCAST SITES

- (1) Development Homes, Inc - Grand Forks
Rumor's - Grand Forks
- (2) Fair Circuit Horse Racing Association - Fessenden
Turf Room - Fargo
- (3) Horse Race North Dakota - Fargo
Howard Johnson Turf Club - Fargo
- (4) Jamestown Eagles Club
Jamestown Eagles Club
- (5) ND Association for the Disabled, Inc. - Grand Forks
Chips Casino and Lounge - Bismarck
- (6) The Team Makers Club, Inc. - Fargo
The Bowler - Fargo
The Turf Club 9 - Fargo
- (7) Turtle Mountain Band of Chippewa
Sky Dancer Hotel and Casino - Belcourt
- (8) Williston Convention and Visitors Bureau, Inc.
El Rancho Club - Williston

Commissioner Arthaud made the motion to approve all the simulcast sites excluding site three, the Howard Johnson Turf Club until the inspection and approval. The motion was seconded by Commissioner Clement.

Commissioner Pladson asked to have the motion repeated and Commissioner Arthaud repeated the motion.

Chairman Boehm asked for discussion and with none asked Administrative Officer Tessmann to take the roll:

Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Commissioner Pladson	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

AGENDA ITEM #2

Chairman Boehm stated item number two was Live Race Date Requests.

2. LIVE RACE DATE REQUESTS

- a. Outdoor Recreation Development Assn (ORDA)
Chippewa Downs - Belcourt
(8 race dates)
 - June 4 & 5
 - June 11 & 12
 - June 18 & 19
 - June 25 & 26

Administrative Officer Tessmann stated that Doug DeMontigny was available by phone should the commission have any questions. It was stated that ORDA was requesting an additional weekend for 2005. Chairman Boehm added that today we are only approving the race dates and not approving funding.

Commissioner Clement made the motion to approve the 2005 race dates for Outdoor Recreation Development Association (ORDA). The motion was seconded by Commissioner Frederick.

Chairman Boehm asked for further discussion and with none asked Administrative Officer Tessmann to take the roll:

Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Commissioner Pladson	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

Chairman Boehm stated that item "b" under number two was Horse Race North Dakota race days.

- b. Horse Race North Dakota - Fargo
(21 race dates)
 - August 5, 6, 7
 - August 12, 13, 14
 - August 19, 20, 21
 - August 26, 27, 28
 - September 3, 4, 5

Harness Meet
(6 race dates)
September 9, 10, 11
September 16, 17, 18

Chairman Boehm stated they are requesting 21 race days. The chairman asked are those more dates than you had last year?

Jim Tilton answered this amounts to three additional dates, one additional weekend. I would make you aware of the fact that the last weekend of the 16th, 17th and 18th is dependent on Casinos of Winnipeg. The Casinos of Winnipeg approached us last year with the idea they would actually fund all the purses, all the promotion, everything, tentatively provide \$100,000 to run one additional weekend of harness racing. We said that we would submit for the race date. Now if in fact they do not come thorough with the money to fund that, then we are not obligated to hold races on those dates. The 16th, 17th and 18th are the three additional dates from what we had last year.

Chairman Boehm asked does that make a difference if we grant race dates to Bottineau? Jim answered that if you grant Bottineau race dates, we won't have harness racing in Fargo. We are not going to have a harness meet in Fargo if you grant race dates and funding to Bottineau. Commissioner Clement asked what if we grant race dates and discuss the funding later. Commissioner Arthaud stated we have to grant race dates. Jim Tilton added if you grant race dates that is your prerogative to do that. I think what the motion is right now is to grant us race dates. We will take those race dates. Now if you were to come along and say ok we are going to grant Bottineau race dates also then fine then we both have our race dates. What happens subsequently to all that, what I am doing is making you aware of what potentially could happen. That certainly is up to the commission. We are having harness racing at the Fargo track to facilitate harness racing in North Dakota and also for the Canadian people that want to come for harness racing. If there are going to be harness races already then we don't see a real need to extend our season by having harness races at Fargo.

Commissioner Arthaud stated I may be ignorant to the law that was passed in the last legislature but we have no choice but to grant race dates, right?

Commissioner Arthaud made the motion to grant Horse Race North Dakota the 2005 race days.
The motion was seconded by Commissioner Clement.

Chairman Boehm asked for further discussion and with done asked Administrative Officer Tessmann to take the roll:

Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Commissioner Pladson	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

Chairman Boehm stated that next item is to grant race dates for ND Harness Racing Association, Bottineau.

- c. North Dakota Harness Racing Association - Bottineau
(4 race dates)
May 29 & 30
June 4 & 5

Commissioner Arthaud made the motion to approve the race days for North Dakota Harness Racing Association in Bottineau. The motion was seconded by Commissioner Clement.

Chairman Boehm asked for discussion. Commissioner Frederick said there is a conflict of dates with June 4 and 5 being approved for Belcourt.

Commissioner Arthaud asked what does the statutes say, does it say we have to grant race dates that they request or do we just have to grant race days?

Jim Tilton said if you are having flat saddle racing in Belcourt that is a totally different group than the harness racing in Bottineau. The dates conflict but it does not impact the same people, doesn't impact the same jockeys.

Commissioner Frederick asked if they have their own machine for grooming the track for horse racing. Leon Glasser stated I do not know how Fair Circuit would look at furnishing any equipment.

Commissioner Arthaud stated I think how you do it is that you would grant the race days, and then you will eliminate dates when it comes to the funding. Because everyone has increased the race days requests which I think they will naturally ask for increased funding. I think the board is a little conservative on their approach to increase the funding with our limited dollars. You kind of have your hands tied to a point.

Jim Tilton added just a slight correction on that, Jim. We are asking for an increase on race dates but in fact we are not asking the commission to take and do anything with regards to funding for that last weekend. Commissioner Arthaud added that no one is asking for any increase in funding at this point and time. What I am saying that I think that in my own assumption is that it will shake out some race dates.

Chairman Boehm stated I think some of these associations if they do not get any money they might think twice in having the races.

Commissioner Arthaud stated I understand Clarence what you are saying there is a conflict in the 4th and the 5th but we approved Belcourt's race dates just because they were "a" on the list. What if Bottineau would have been "a" on the list? Chairman Boehm asked do you think there is a conflict in the two races. Commissioner Frederick added all we want to know if they have their own machine for grooming or if they expect to use ours, if they do there is a conflict. Leon Glasser stated the machines belong to Fair Circuit Horse Racing anyway. So I am sure that Fair Circuit Horse Racing as it stands right now is not going to take that conditioner away. That has been assigned to Belcourt. Commissioner Frederick added the only problem that I see is if we grant Bottineau these dates then Fargo which is a larger track said they aren't going to have harness races.

Chairman Boehm stated we have to grant race dates by law. We do have a leeway as to how much money we give them from the funds.

Chairman Boehm asked for any further discussion and with none asked Administrative Officer Tessmann to take the roll:

Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Commissioner Pladson	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

Chairman Boehm announced under additional business the approval of NAPRA payment, of \$10,000. That payment is set according to the handle for 2003. 2004 handle and payment will be a lot less. I recommend that we do join a group. We belong to NAPRA now. I think there are a lot of reasons that we belong to a national group. There are a lot of national issues that affect us. There is some question about the amount of money.

AGENDA ITEM #3

3. Additional Business

a. Approval of NAPRA payment of \$10,000

Commissioner Clement stated so the dues for 2005 is based on the 2003 handle. Why is it set up that way? I can understand it going one year backwards but I don't understand the two years. I just have a hard time with the \$10,000. They know our situation. It would be difficult for me to vote yes on a \$10,000 and they know the situation and I think we should be able to appeal to them. Just because they can collect the \$10,000 doesn't mean they should. They should be willing to compromise. Essentially when RSI was in arrears of six million dollars the state essentially get 4% of the handle; if you look at the handle associated with six million dollars, it is something like \$170,000 or \$180,000. I did the math but can't remember what it was. It is sizeable and so essentially because no taxes were paid, sure you have the handle on paper, but in reality the funds were never received for all of 2003.

Administrative Officer Tessmann added dues are structured with handle below 25 million dues are \$2,500, handle between 25-50 million dues are \$4,500, handle over 100 million the dues are \$10,000.

Commissioner Arthaud asked if we did not include the money that did not get taxes paid on would that put us down below the ten thousand. Would we still be above it?

Roger Thompson stated it was \$151 million without that illegal site. The illegal site added to \$210 million. It would never fall below that 100 million.

Commissioner Arthaud added so we would still be above the 100 million. My suggestion or my thought is if it is not due until January 1st maybe someone could contact NAPRA and work on the issue you are talking about and bring our point across.

Commissioner Frederick asked how the office uses NAPRA. Administrative Officer Tessmann explained the uses of the NAPRA database that is useful to the office and confirmed what Chairman Boehm had stated that national issues are arising and stated that belonging to an association is a benefit to the Racing Commission.

Chairman Boehm stated I know one issue is that the jockeys are striking in a couple states. This would be a huge issue that the associations will have to deal with.

Leon Glasser stated that there was an original group by the name of Racing Commission International which NAPRA broke off of so is there a possibility that the Commission could check out RCI.

Commissioner Arthaud asked the chairman, what your impression of RCI was. The Chairman explained when he attended the meeting where the two groups were going to unite; I was not impressed with RCI. At that point they were trying to get together; RCI hired a director and gave him a five year contract before these groups met to discuss getting together. You start off that way and give a real high salary. You can't expect one group to join another when they have already hired a director for the new group. That is just not the way business is done.

Wes Heinert stated RCI was the original group which you guys need to understand that. Most of the states belong to that group. They just got 7 or 8 of the major states back and several more are joining back. I think if we are going to be a part of horse racing we need to belong to the original group, the one we all started with. I think we should take a strong look at it, what it has to offer. From what I understood and read, NAPRA was the group that did not want to join. They were the ones holding up the band wagon that was recorded in Thoroughbred Times and Blood Horse magazines. NAPRA actually was putting the breaks on getting the group put together.

Chairman Boehm added well if you would have attended that meeting you could see why NAPRA did not want to join. Wes added but maybe it was with who you were attending with. Chairman Boehm stated he was with the whole group at a national meeting but anyway that is immaterial. We can do that. We can check what their dues and what the benefits are.

Commissioner Arthaud asked the Administrative Officer to check when the dues are due and should one member check into this. Commissioner Clement stated that we should let the facts rule and if we have options, I am not biased either way. What I am objecting to is our situation and \$10,000 is a lot of money and I think we should be given special consideration because it is highly likely that we will go back and achieve what we did during RSI era. I think we need more time to study the benefits of both organizations and make a decision on which is the best organization.

Commissioner Clement made the motion to table the approval of the North American Pari-Mutuel Regulators Association (NAPRA) dues until we have further information. The motion was seconded by Commissioner Arthaud.

Chairman Boehm called for further discussion.

Commissioner Pladson asked if that information would include whether or not NAPRA would give us reduced rate due to our extenuating circumstances for the 2003 handle. Chairman Boehm answered yes.

With no further discussion Chairman Boehm asked Administrative Officer Tessmann to take the roll.

Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Commissioner Pladson	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

Commissioner Arthaud stated now my question is how we are going to make that decision. Are a couple of board members going to take it upon themselves to look at what both parties have to offer and #1 look to see if they will give us a rate reduction and #2 to look to see what benefits or negatives are of each organization.

Chairman Boehm asked if Commissioners Arthaud and Clement were volunteering and they said yes.

Commissioner Arthaud stated we are looking for input from the rest of the commissioners if you are comfortable with NAPRA or RCI.

Chairman Boehm stated the last item under additional business is a Recommendation of final Order from the Office of Administrative Hearings on Wanda Belgarde. The commission will need to decide to whether to adopt, reject or modify.

- b. Recommendation of final Order from the Office of Administrative Hearings
- Wanda Belgarde

Doug Bahr stated I am the Assistant Attorney General, in the absence of the board's general counsel. I just wanted to make sure the commission understood its opportunities or options. After an Administrative Hearing, the Administrative Hearing Officer issued recommended findings, conclusions and a recommended order. The commission has the option of simply adopting those as issued, and then the recommendation would become the Commission's order, or the Commission can adopt the findings but change the order in some way they felt appropriate and has a justification for doing so or the Commission can completely reject the recommendation. However, if you reject any factual findings made by the hearing officer, we need to be able to explain the reason why you feel the hearing officer erred in making those factual findings. There needs to be some objective explanation. Also based on this recommended order the commission will also issue a time line when the administrative fee that it would access needs to

be paid. And that is something that if it adopts this order needs to make that determination such as 30 days from the date of service of the order or something to that effect. As I understand it the Administrative Law Judge issued an order that basically agreed with the commission's position and so typically in this case the simply adoption would be in order but obviously that is a decision for the Commission.

Chairman Boehm asked is there or would there be any fine or fees or anything due? Mr. Bahr said if you look at the order, which is the one the Administrative Law Judge proposes, is you would fully accept the recommendation of the Administrative Law Judge and then Belgarde pay a \$100 administrative fee for each violation which I understand were two and that the commission would by separate letter set a time when that would have to be paid for example within 30 days of date of service or 60 days. Often that may depend on the amount, obviously this is not a significant amount as I understand the order there is only two alleged violations so we are talking \$200.

Chairman Boehm asked for any further questions from Doug and with none thanked Doug.

Commissioner Arthaud made the motion to adopt the order from the administrative law judge regarding Wanda Belgarde with a timeline of 90 days. The motion was seconded by Commissioner Clement.

With no further discussion, Chairman Boehm asked Administrative Officer Tessmann to take the roll:

Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Commissioner Pladson	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

Doug Bahr stated Mr. Chairman, with the commission's permission, once you have signed the order on behalf of the commission that it is to be provided to me and I will extradite the service of that with a cover letter on the commission's behalf stating that the administrative fee is due within 90 days of receipt acceptable to the commission.

Chairman Boehm stated there was one other issue. Leon did you want to discuss stallion auction?

Leon Glasser stated I realize the commission doesn't have it on the agenda but both the Quarter Horse and the Thoroughbred associations; we have been given money each year to advertise for the stallion auction. The problem if by not addressing that today we could spend a few thousand dollars in advertisement and not know what is going to happen down the road here.

Administrative Officer Tessmann stated that since this item had not come in timely it was not on the agenda and therefore was not in the notice of the filing of this meeting.

Commissioner Arthaud stated I wish this issue would have been addressed timely because in my opinion the granting of money is a big picture and it is not an individual item.

Leon Glasser explained how the money was used for advertising for the stallion auction. Chairman Boehm suggested placing this item on a future meeting's agenda.

With no further business, the Chairman asked for a motion to adjourn.

Commissioner Arthaud made the motion to adjourn the meeting. The motion was seconded by Commissioner Clement.

All in favor said aye.